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In re Application of	:	
TECKOE, et al.	:	
Serial No.: 10/573,087	:	
PCT No.: PCT/GB04/04097	:	DECISION ON PETITION
Int. Filing Date: 24 September 2004	:	
Priority Date: 24 September 2003	:	UNDER 37 CFR 1.47(a)
Atty Docket No.: 61170-227 (JUSK-126)	:	
For: IMPROVEMENTS IN POWDER COMPACTION	:	
AND ENROBING	:	

This decision is in response to applicant's "PETITION UNDER 37 CFR §1.47(a)" filed 22 September 2008 to accept the application without the signature of joint inventor Mike Dann.

BACKGROUND

On 24 September 2004, applicant filed international application PCT/GB04/04097 which claimed priority to a previous application filed 24 September 2003. A copy of the international application was transmitted to the United States on 07 April 2005. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 24 March 2006.

On 23 March 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and a preliminary amendment.

On 21 February 2008, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 22 September 2008, applicant filed a response including the present petition under 37 CFR 1.47(a) to accept the application without the signature of joint inventor Mike Dann accompanied by a petition for a five-month extension of time. With the filing of the petition for a five-month extension of time and payment of the appropriate extension of time fee, the present response is considered timely filed.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint investor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items 1 and 3.

Regarding item (2), Section 409.03(d) of the Manual of Patent Examining Procedure (MPEP) states, in part:

Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature.

It is not certain from the declaration of Ms. Chisom Owhonda-Wopara that a complete set of application papers was sent to the inventor. Ms. Owhonda-Wopara declares that it has always been the standard procedure to attach a complete copy of the relevant application when sending declarations and assignment documents for signing. However, she does not specifically declare that she include a copy of the application in her mailing to Mr. Dunn. Her letter (applicant's exhibit 3) references a declaration and power of attorney and an assignment document, but not the application. The enclosures are not listed on the letter. As such, some doubt remains as to whether the application was indeed mailed.

Regarding item (4), the declaration filed 22 September 2008 does not comply with 37 CFR 1.497 (a)-(b).

Specifically, MPEP Section 201.03 states that:

An oath or declaration under 37 CFR 1.63 by each actual inventor must be presented. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration.

The filed declaration contains 4 pages listing inventors one through five and a single sheet listing and executed by the sixth inventor Martin Good. This suggests that either the filed declaration was compiled from numerous declarations or that the inventors only returned their signature pages. Either scenario renders the document non-compliant.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED without prejudice.**

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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